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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/552,991

10/13/2005

Yoshiaki Sato

SUZ0022-US

5832

36183

7590

10/08/2008

PAUL, HASTINGS, JANOFSKY & WALKER LLP
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EXAMINER

HORNBERGER, JENNIFER LEA

ART UNIT

PAPER NUMBER

3734

MAIL DATE

DELIVERY MODE

10/08/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/552,991	Applicant(s) SATO, YOSHIAKI	
	Examiner JENNIFER L. HORNBERGER	Art Unit 3734	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/13/2005, 05/30/2008, 07/15/2008</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Newton (US 2,332,488).

Regarding claim 1, Newton discloses a muscle development device comprising: a hollow tight fitting band (1) having a tube (14) and a wire-like piece (4) provided therein; and fastening means (10) for use in keeping a length of the tight fitting band in a loop having a desired size, the muscle development device being used to develop muscles of a limb while restricting the blood flow therethrough by means of applying, with said tight fitting band being wrapped around a predetermined compressed range of said limb and said tight fitting band being fastened with said fastening means to have a desired size, a predetermined pressure to said limb around which said tight fitting band is wrapped, the pressure being produced by introducing air to said tube, said wire-like piece being designed to limit the direction towards which said tube is allowed to inflate as said tube is filled with air, to against the muscles as determined with said tight fitting band being rest on the muscles (col. 2, ln. 5-8 and 46-48).

Regarding claim 2, Newton discloses said wire-like piece (4) has a segment that is not parallel to the lengthwise direction of said tight fitting band (Fig. 2).

Regarding claim 3, Newton discloses said wire-like piece (4) is a set of wire-like pieces that are placed in a direction not parallel to the lengthwise direction of said tight fitting band at a predetermined distance along the length of said tight fitting band (Fig. 2).

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Regarding claim 4, Newton discloses said wire-like piece (4) is made of a single wire-like piece having a bend or a series of bends (Fig. 2).

3. Claims 5-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Eaton (US 5,413,582).

Regarding claim 5, Eaton discloses a muscle development device comprising: a hollow tight fitting band (20) having a tube (38) provided therein; and fastening means (74) for use in keeping a length of the tight fitting band in a loop having a desired size (col. 4, ln. 51-53), the muscle development device being used to develop muscles of a limb while restricting the blood flow therethrough by means of applying, with said tight fitting band being wrapped around a predetermined compressed range of said limb and said tight fitting band being fastened with said fastening means to have a desired size, a predetermined pressure to said limb around which said tight fitting band is wrapped, the pressure being produced by introducing air to said tube, said tube having a higher stretching rate on the side facing to the muscles than on the side opposite to said muscles, as determined with said tight fitting band being rest on the muscles, said tube being designed to inflate more in a direction against the muscles than in a direction away from the muscles as said tube is filled with air with said tight fitting band being rest on the muscles (col. 4, ln. 65 – col. 5, ln. 21).

Regarding claim 6, Eaton said tube is made of an elastic body, the elastic body being thinner (36) on the side facing to the muscles than on the side opposite to said muscles, as determined with said tight fitting band being rest on the muscles (col. 4, ln. 65 – col. 5, ln. 21).

Regarding claim 7, Eaton disclose said tube is a bonded combination of elastic bodies having different stretching rates from each other, the elastic body on the side facing to the muscles having a higher stretching rate than the elastic body on the side

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opposite to said muscles, as determined with said tight fitting band being rest on the muscles (col. 3, ln. 56 – col. 4, ln. 10 and col. 5, ln. 19-21).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Newton (US 2,332,488) in view of Nagelman (US 1,288,130).

Regarding claim 8, Newton discloses the claimed invention except for an air limiting means that delimits the portion of said tube into which air is allowed to enter when attached to said tight fitting band at a certain position along the length thereof. Nagelman discloses a clamp (15, 17) that delimits the portion of a tube into which air is allowed to enter when attached to a tight fitting band (Fig. 1). It would have been obvious to one of ordinary skill in the art to provide a clamp or “air limiting means” in the device of Newton in order to prevent air from entering the tube until the desired time.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JENNIFER L. HORNBERGER whose telephone number is (571)270-3642. The examiner can normally be reached on Monday through Friday from 8am-5pm, Eastern time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Todd Manahan can be reached on (571)272-4713. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

jlh
09/30/08

/Todd E Manahan/
Supervisory Patent Examiner, Art Unit 3731